

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSUE SEIJO,

Plaintiff,

v.

REBECCA BRADLOW,

Defendants.

Case No. 2:22-cv-903-TSZ-TLF

ORDER DIRECTING SERVICE OF
CIVIL RIGHTS COMPLAINT

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is unrepresented by counsel. The Court, having reviewed plaintiff's complaint, hereby ORDERS as follows:

(1) Consent

The Clerk is directed to issue the Notice of Option of Consent to Magistrate Judge Theresa L. Fricke.

(2) Service by Clerk

The Clerk is directed to send the following to defendants by first class mail: a copy of plaintiff's Amended Complaint, a copy of this Order, a copy of the Notice of Option to Consent, two copies of the notice of lawsuit and request for waiver of service of summons, a waiver of service of summons, and a return envelope, postage prepaid, addressed to the Clerk's Office. The Clerk shall also send courtesy copies of this Order

1 and the Amended Complaint to Rebecca Bradlow, Reid Sinclair Burkland, and Pedro
2 Melesio.

3 (3) Response Required

4 Defendant(s) shall have **thirty (30) days** within which to return the enclosed
5 waiver of service of summons. A defendant who timely returns the signed waiver shall
6 have **sixty (60) days** after the date designated on the notice of lawsuit to file and serve
7 an answer to the complaint or a motion permitted under Rule 12 of the Federal Rules of
8 Civil Procedure.

9 A defendant who fails to timely return the signed waiver will be personally served
10 with a summons and complaint, and may be required to pay the full costs of such
11 service, pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure. A defendant
12 who has been personally served shall file an answer or motion permitted under Rule 12
13 within **twenty-one (21) days** after service.

14 (4) Filing and Service by Parties, Generally

15 All attorneys admitted to practice before this Court are required to file documents
16 electronically via the Court's CM/ECF system. Counsel are directed to the Court's
17 website, www.wawd.uscourts.gov, for a detailed description of the requirements for
18 filing via CM/ECF. All non-attorneys, such as *pro se* parties and/or prisoners, may
19 continue to file a paper original with the Clerk. All filings, whether filed electronically or
20 in traditional paper format, must indicate in the upper right-hand corner the name of the
21 magistrate judge to whom the document is directed.

1 Any document filed with the Court must be accompanied by proof that it has
2 been served upon all parties that have entered a notice of appearance in the underlying
3 matter.

4 (5) Motions, Generally

5 Any request for court action shall be set forth in a motion, properly filed and
6 served. Pursuant to LCR 7(b), any argument being offered in support of a motion shall
7 be submitted as a part of the motion itself and not in a separate document. The motion
8 shall include in its caption (immediately below the title of the motion) a designation of
9 the date the motion is to be noted for consideration upon the Court's motion calendar.

10 Stipulated and agreed motions, motions to file over-length motions or briefs,
11 motions for reconsideration, joint submissions pursuant to the option procedure
12 established in LCR 37(a)(2), motions for default, requests for the clerk to enter default
13 judgment, and motions for the court to enter default judgment where the opposing party
14 has not appeared shall be noted for consideration on the day they are filed. See LCR
15 7(d)(1). All other non-dispositive motions shall be noted for consideration no earlier
16 than the third Friday following filing and service of the motion. See LCR 7(d)(3). All
17 dispositive motions shall be noted for consideration no earlier than the fourth Friday
18 following filing and service of the motion. *Id.*

19 For electronic filers, all briefs and affidavits in opposition to either a dispositive or
20 non-dispositive motion shall be filed and served not later than 11:59 p.m. on the
21 Monday immediately preceding the date designated for consideration of the motion. If a
22 party (i.e. a *pro se* litigant and/or prisoner) files a paper original, that opposition must be
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1 received in the Clerk's office by 4:30 p.m. on the Monday preceding the date of
2 consideration.

3 The party making the motion may file and serve, not later than 11:59 p.m. (if filing
4 electronically) or 4:30 p.m. (if filing a paper original with the Clerk's office) on the date
5 designated for consideration of the motion, a reply to the opposing party's briefs and
6 affidavits.

7 (6) Motions to Dismiss and Motions for Summary Judgment

8 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil
9 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules
10 of Civil Procedure should acquaint themselves with those rules. As noted above, these
11 motions shall be noted for consideration no earlier than the fourth Friday following filing
12 and service of the motion.

13 Defendants filing motions to dismiss or motions for summary judgment are
14 advised that they MUST serve a *Rand* and/or *Wyatt* notice concurrently with motions to
15 dismiss and motions for summary judgment so that *pro se* prisoner plaintiffs will have
16 fair, timely and adequate notice of what is required of them in order to oppose those
17 motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set
18 forth model language for such notices:

19 A motion for summary judgment under Rule 56 of the Federal Rules
20 of Civil Procedure will, if granted, end your case.

21 Rule 56 tells you what you must do in order to oppose a motion for
22 summary judgment. Generally, summary judgment must be granted
23 when there is no genuine issue of material fact – that is, if there is no
24 real dispute about any fact that would affect the result of your case,
the party who asked for summary judgment is entitled to judgment
as a matter of law, which will end your case. When a party you are
suing makes a motion for summary judgment that is properly

supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, **you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.**

Rand v. Rowland, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added); *Wyatt v. Terhune*, 315 F.3d 1108 (9th Cir. 2003).

Defendants who fail to file and serve the required *Rand* and *Wyatt* notice on plaintiff may have their motion stricken from the Court's calendar with leave to re-file.

(7) Direct Communications with District Judge or Magistrate Judge

No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

(8) The Clerk is directed to send copies of this Order, the Notice of Consent, and of the Court's *pro se* instruction sheet to plaintiff.

Dated this 22nd day of March, 2023.



Theresa L. Fricke
United States Magistrate Judge